

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended)	
Accusation Against:)	
)	
)	
GEORGE A. PONCE, M.D.)	Case No. 09-2009-198563
)	
Physician's and Surgeon's)	
Certificate No. A 51194)	
)	
Respondent)	
_____)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 28, 2014.

IT IS SO ORDERED: January 29, 2014.

MEDICAL BOARD OF CALIFORNIA

By:  MD
Dev Gnanadev, Chair
Panel B

1 KAMALA D. HARRIS.
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 09-2009-198563

13 **GEORGE A. PONCE, M.D.**
14 **12810 Heacock Street, Suite B201**
Moreno Valley, CA 92553

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**
16 **No. A51194**

17 Respondent.

18
19 **PARTIES**

20 1. Kimberley Kirchmeyer (Complainant) is the Interim Executive Director of the
21 Medical Board of California. She is represented in this matter by Kamala D. Harris, Attorney
22 General of the State of California, by Samuel K. Hammond, Deputy Attorney General.

23 2. Respondent George A. Ponce, M.D. (Respondent) is represented in this proceeding
24 by attorney Raymond J. McMahon, Esq., Bonne, Bridge, Mueller, O'Keefe & Nichols, whose
25 address is 1851 E. First Street, Suite 810, Santa Ana, CA 92705-4041.

26 3. On or about September 15, 1992, the Medical Board of California issued Physician's
27 and Surgeon's Certificate No. A51194 to George A. Ponce, M.D. (Respondent). The Physician's
28 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought

1 in First Amended Accusation No. 09-2009-198563, and will expire on August 31, 2014, unless
2 renewed.

3 JURISDICTION

4 4. On September 28, 2012, Accusation No. 09-2009-198563 was filed before the
5 Medical Board of California, Department of Consumer Affairs, State of California (Board). On
6 September 28, 2012, a true and correct copy of Accusation No. 09-2009-198563 and all other
7 statutorily required documents were properly served on Respondent by certified mail at his
8 address of record which was and is: 12810 Heacock Street, Suite B201, Moreno Valley, CA
9 92553 Respondent timely filed his Notice of Defense contesting the Accusation.

10 5. On March 22, 2013, First Amended Accusation 09-2009-198563 was filed before the
11 Board and is currently pending against Respondent. On March 22, 2013, a true and correct copy
12 of First Amended Accusation No. 09-2009-198563 and all other statutorily required documents
13 were properly served on Respondent at his address of record which was and is: 12810 Heacock
14 Street, Suite B201, Moreno Valley, CA 92553. A true and correct copy of First Amended
15 Accusation No. 09-2009-198563 attached hereto as Exhibit A and is incorporated by reference as
16 if fully set forth herein.

17 ADVISEMENT AND WAIVERS

18 6. Respondent has carefully read, fully discussed with counsel, and fully understands the
19 charges and allegations in First Amended Accusation No. 09-2009-198563. Respondent has also
20 carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

22 7. Respondent is fully aware of his legal rights in this matter, including the right to a
23 hearing on the charges and allegations in First Amended Accusation No. 09-2009-198563; the
24 right to confront and cross-examine the witnesses against him; the right to present evidence and to
25 testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of
26 witnesses and the production of documents; the right to reconsideration and court review of an
27 adverse decision; and all other rights accorded by the California Administrative Procedure Act
28 and other applicable laws.

8. Having the benefit of counsel, Respondent hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 09-2009-198563 and that he has thereby subjected his Physician's and Surgeon's Certificate No. A51194 to disciplinary action. Respondent agrees to the Board's imposition of discipline as set forth in the Disciplinary Order below.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all the charges and allegations contained in First Amended Accusation No. 09-2009-198563, shall be deemed true, correct, and fully admitted by Respondent for the purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of

1 this paragraph, it shall not become effective, shall not be of evidentiary value whatsoever, and
2 shall not be relied upon or introduced in any disciplinary action by either party hereto.

3 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary
4 Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was
5 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
6 Disciplinary Order or of any matter or matters related hereto.

7 ADDITIONAL PROVISIONS

8 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
9 be an integrated writing representing the complete, final and exclusive embodiment of the
10 agreements of the parties in the above-entitled matter.

11 14. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
12 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
13 signatures and, further, that facsimile copies shall have the same force and effect as originals.

14 15. In consideration of the foregoing admissions and stipulations, the parties agree the
15 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
16 the following Disciplinary Order:

17 DISCIPLINARY ORDER

18 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A51194 issued
19 to Respondent George A. Ponce, M.D. (Respondent) is revoked. However, the revocation is
20 stayed and Respondent is placed on probation for five (5) years from the effective date of this
21 Decision and Disciplinary Order on the following terms and conditions.

22 1. ALCOHOL-ABSTAIN FROM USE

23 Respondent shall abstain completely from use of products or beverages containing alcohol.
24 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive
25 a notification from the Board or its designee to immediately cease the practice of medicine. The
26 Respondent shall not resume the practice of medicine until final decision on an accusation and/or
27 petition to revoke probation. An accusation or petition to revoke probation shall be filed by the
28 Board within 15 days of the notification to cease practice. If the Respondent requests a hearing

1 on the accusation and/or petition to revoke probation, the Board shall provide respondent with a
2 hearing within 30 days of the request, unless the respondent stipulates to a later hearing. A
3 decision shall be received from the Administrative Law Judge or the Board within 15 days unless
4 good cause can be shown for the delay

5 2. BIOLOGICAL FLUID TESTING

6 Respondent shall immediately submit to biological fluid testing, at Respondent's expense,
7 upon request of the Board or its designee. Biological fluid testing may include, but is not limited
8 to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the
9 Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory
10 or service approved in advance by the Board or its designee that will conduct random,
11 unannounced, observed, biological fluid testing. The contract shall require results of the tests to
12 be transmitted by the laboratory or service directly to the Board or its designee within four hours
13 of the results becoming available. Respondent shall maintain this laboratory or service contract
14 during the period of probation.

15 A certified copy of any laboratory test result may be received in evidence in any
16 proceedings between the Board and respondent.

17 If Respondent fails to cooperate in random biological fluid testing program within the
18 specified time frame, Respondent shall receive a notification from the Board or its designee to
19 immediately cease the practice of medicine. The Respondent shall not resume the practice of
20 medicine until final decision on an accusation and/or a petition to revoke probation. An
21 accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the
22 notification to cease practice. If the Respondent requests a hearing on the accusation and/or
23 petition to revoke probation, the Board shall provide the Respondent with a hearing within 30
24 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be
25 received from the Administrative Law Judge or the Board within 15 days unless good cause can
26 be shown for the delay. The cessation of practice shall not apply to the reduction of the
27 probationary time period.

28 ///

1 If the Board does not file an accusation or petition to revoke probation within 15 days of the
2 issuance of the notification to cease practice or does not provide respondent with a hearing within
3 30 days of a such a request, the notification of cease practice shall be dissolved.

4 3. PROFESSIONALISM PROGRAM (ETHICS COURSE)

5 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
6 professionalism program, that meets the requirements of Title 16, California Code of Regulations
7 (CCR) section 1358. Respondent shall participate in and successfully complete that program.
8 Respondent shall provide any information and documents that the program may deem pertinent.
9 Respondent shall successfully complete the classroom component of the program not later than
10 six (6) months after respondent's initial enrollment, and the longitudinal component of the
11 program not later than the time specified by the program, but no later than one (1) year after
12 attending the classroom component. The professionalism program shall be at Respondent's
13 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
14 renewal of licensure.

15 A professionalism program taken after the acts that gave rise to the charges in the First
16 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
17 the Board or its designee, be accepted towards the fulfillment of this condition if the program
18 would have been approved by the Board or its designee had the program been taken after the
19 effective date of the Decision.

20 Respondent shall submit a certification of successful completion to the Board or its
21 designee not later than 15 calendar days after successfully completing the course, or not later than
22 15 calendar days after the effective date of the Decision, whichever is later.

23 4. PSYCHIATRIC EVALUATION

24 Within 30 calendar days of the effective date of this Decision, and on whatever periodic
25 basis thereafter may be required by the Board or its designee, Respondent shall undergo and
26 complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-
27 appointed board certified psychiatrist, who shall consider any information provided by the Board
28 or designee and any other information the psychiatrist deems relevant, and shall furnish a written

1 evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the
2 effective date of the Decision shall not be accepted towards the fulfillment of this requirement.
3 Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

4 Respondent shall comply with all restrictions or conditions recommended by the evaluating
5 psychiatrist within 15 calendar days after being notified by the Board or its designee.

6 5. PSYCHOTHERAPY

7 Within 60 calendar days of the effective date of this Decision, Respondent shall submit to
8 the Board or its designee for prior approval the name and qualifications of a California-licensed
9 board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology
10 and at least five years of postgraduate experience in the diagnosis and treatment of emotional and
11 mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy
12 treatment, including any modifications to the frequency of psychotherapy, until the Board or its
13 designee deems that no further psychotherapy is necessary.

14 The psychotherapist shall consider any information provided by the Board or its designee
15 and any other information the psychotherapist deems relevant and shall furnish a written
16 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
17 psychotherapist any information and documents that the psychotherapist may deem pertinent.

18 Respondent shall have the treating psychotherapist submit quarterly status reports to the
19 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
20 evaluations by the Board-appointed board certified psychiatrist. If, prior to the completion of
21 probation, respondent is found to be mentally unfit to resume the practice of medicine without
22 restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period
23 of probation shall be extended until the Board determines that Respondent is mentally fit to
24 resume the practice of medicine without restrictions.

25 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

26 6. NOTIFICATION

27 Within seven (7) days of the effective date of this Decision, the Respondent shall provide a
28 true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at

every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

8. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

9. GENERAL PROBATION REQUIREMENTS

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Change

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's place of residence., unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

1 Travel or Residence Outside California

2 Respondent shall immediately inform the Board, or its designee, in writing, of travel to
3 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
4 30 calendar days.

5 10. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent shall be
6 available in person for interviews either at Respondent's place of business or at the probation unit
7 office, with or without prior notice throughout the term of probation.

8 11. NON-PRACTICE WHILE ON PROBATION

9 Respondent shall notify the Board or its designee in writing within 15 calendar days of any
10 periods of non-practice lasting more than 30 calendar days and within 15 days of Respondent's
11 return to practice. Non-practice is defined as any period of time Respondent is not practicing
12 medicine in California as defined in sections 2051 and 2052 of the Business and Professions Code
13 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or
14 other activity as approved by the Board. All time spent in an intensive training program which
15 has been approved by the Board or its designee shall not be considered non-practice. Practicing
16 medicine in another state of the United States of Federal jurisdiction while on probation with the
17 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
18 Board-ordered suspension of practice shall not be considered as a period of non-practice.

19 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
20 months, Respondent's license shall successfully complete a clinical training program that needs
21 the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary
22 Orders and Disciplinary Guidelines" prior to resuming the practice of medicine. Respondent's
23 period of non-practice while of probation shall not exceed two (2) years.

24 Period of non-practice shall not apply to reduction of probationary term.

25 Periods of non-practice will relieve Respondent of the responsibility to comply with the
26 probationary terms and conditions with the exception of this condition and the following terms
27 and conditions of probation: Obey All Laws; General Probation Requirements.

28 ///

1 12. COMPLETION OF PROBATION Respondent shall comply with all financial
2 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
3 to the completion of probation. Upon successful completion of probation, Respondent's
4 certificate shall be fully restored.

5 13. VIOLATION OF PROBATION Failure to fully comply with any term or
6 condition of probation is a violation of probation. If Respondent violates probation in any
7 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
8 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
9 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
10 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
11 shall be extended until the matter is final.

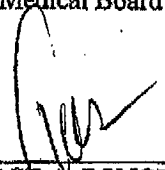
12 14. LICENSE SURRENDER Following the effective date of this Decision, if
13 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
14 the terms and conditions of probation, Respondent may request surrender of his or her license.
15 The Board reserves the right to evaluate Respondent's request and to exercise its discretion
16 whether or not to grant the request, or to take any other action deemed appropriate and reasonable
17 under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15
18 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and
19 Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms
20 and conditions of probation and the surrender of Respondent's license shall be deemed
21 disciplinary action. If Respondent re-applies for a medical license, the application shall be treated
22 as a petition for reinstatement of a revoked certificate.

23 15. PROBATION MONITORING COSTS Respondent shall pay the costs
24 associated with probation monitoring each and every year of probation, as designated by the
25 Board which may be adjusted on an annual basis. Such costs shall be payable to the Medical
26 Board of California and delivered to the Board or its designee no later than January 31 of each
27 calendar year.


28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A51194 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

DATED: 10/21/13
GEORGE A. PONCE, M.D.
Respondent

I have read and fully discussed with Respondent George A. Ponce, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/21/13
RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

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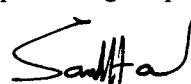
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California, Department of Consumer Affairs, State of California.

DATED: 10/22/13

Respectfully Submitted,

KAMALA D. HARRIS.
Attorney General of California
Thomas S. Lazar
Supervising Deputy Attorney General



SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

SD2009805191

Exhibit A

First Amended Accusation No. 09-2009-198563

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the First Amended Accusation
Against:

14 **GEORGE A. PONCE, M.D.**
15 **12810 Heacock Street, Suite B201**
16 **Moreno Valley, CA 92553**

17 **Physician's and Surgeon's**
Certificate No. A51194,

18 Respondent.

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 22 2013
BY Hypertek **ANALYST**

Case No. 09-2009-198563

FIRST AMENDED ACCUSATION

19
20 Complainant alleges:

21 **PARTIES**

22 1. Linda K. Whitney (Complainant) brings this First Amended Accusation solely
23 in her official capacity as the Executive Director of the Medical Board of California, Department
24 of Consumer Affairs.

25 2. On or about September 15, 1992, the Medical Board of California issued
26 Physician's and Surgeon's Certificate Number A51194 to George A. Ponce, M.D. (Respondent).
27 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on August 31, 2014, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 2234 of the Code states, in pertinent part, that:

2 “The board shall take action against any licensee who is charged with
3 unprofessional conduct.¹ In addition to other provisions of this article,
4 unprofessional conduct includes, but is not limited to, the following:

5 “(a) Violating, or attempting to violate, directly or indirectly, assisting
6 in or abetting the violation of, or conspiring to violate any provision of this
7 chapter.

8 “...”

9 6. Section 2236 of the Code states, in pertinent part, that:

10 “(a) The conviction of any offense substantially related to the
11 qualifications, functions, or duties of a physician and surgeon constitutes
12 unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical
13 Practice Act]. The record of conviction shall be conclusive evidence only of the
14 fact that the conviction occurred.

15 “...”

16 7. Section 2239 of the Code states:

17 “(a) The use or prescribing for or administering to himself or herself, of
18 any controlled substance; or the use of any of the dangerous drugs specified in
19 Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be
20 dangerous or injurious to the licensee, or to any other person or to the public, or to
21 the extent that such use impairs the ability of the licensee to practice medicine
22 safely or more than one misdemeanor or any felony involving the use,
23 consumption, or self administration of any of the substances referred to in this
24 section, or any combination thereof, constitutes unprofessional conduct.

25
26 ¹ Unprofessional conduct has been defined as conduct which breaches the rules or ethical
27 code of the medical profession, or conduct which is unbecoming a member in good standing of
28 the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board
of Medical Examiners* (1978) Cal.App.3d 654.)

1 “(b) A plea or verdict of guilt or a conviction following a plea of nolo
2 contendere is deemed to be a conviction within the meaning of this section. The
3 Division of Medical Quality² may order discipline of the licensee in accordance
4 with section 2227 or the Division of Licensing may order the denial of the license
5 when the time for appeal has elapsed or the judgment of conviction has been
6 affirmed on appeal or when an order granting probation is made suspending
7 imposition of sentence, irrespective of a subsequent order under the provision of
8 Section 1203.4 of the Penal Code allowing such person to withdraw his or her
9 plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
10 guilty, or dismissing the accusation, complaint, information, or indictment.”

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of Crimes Substantially Related to the Qualification,**
13 **Functions or Duties of a Physician and Surgeon)**

14 8. Respondent is subject to disciplinary action under sections 2227 and 2234, as
15 defined by section 2236, of the Code, in that respondent has been convicted of crimes
16 substantially related to the qualifications, functions or duties of a physician and surgeon, as more
17 particularly alleged hereinafter:

18 October 30, 2009 convictions

19 A. On or about March 1, 2009, respondent was stopped by the California
20 Highway Patrol (CHP) for speeding. The CHP had paced respondent's vehicle
21 traveling at a rate of 95 mph. Respondent slowed down to 80 mph when his vehicle
22 came within two (2) car lengths of the vehicle in front of his vehicle. Respondent
23 suddenly merged into the #1 lane without signaling causing the vehicle already in the
24 #1 lane to brake to avoid a collision, and he again accelerated his vehicle to 95 mph.

25 ² California Business and Professions Code section 2002, as amended and effective
26 January 1, 2008, provides that, unless otherwise expressly provided, the term “board” as used in
27 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§2000, et. seq.) means the “Medical
28 Board of California,” and references to the “Division of Medical Quality” and “Division of
Licensing” in the Act or any other provision of law shall be deemed to refer to the Board.

1 The CHP attempted to pull respondent over, but respondent drove an additional 2.25
2 miles before initially stopping. Upon contact with respondent, the CHP officer
3 smelled a distinct odor of an alcoholic beverage coming from the vehicle. When
4 asked about the odor, respondent told the officer he had two glasses of wine earlier in
5 the evening. Respondent smelled of alcohol, and his eyes were red. Respondent was
6 asked to perform Field Sobriety Tests (FST). Respondent was unable to satisfactorily
7 perform the FSTs and was subsequently arrested. Respondent agreed to a blood test.
8 Respondent's blood sample result contained 0.14% alcohol.

9 B. On or about October 30, 2009, in the Superior Court of California,
10 County of Riverside, in the case of *People of the State of California v. George*
11 *Armando Ponce*, Case No. RIM529936, respondent was convicted, on his plea of
12 guilty, of one misdemeanor count of driving under the influence of an alcoholic
13 beverage in violation of Vehicle Code section 23152, subdivision (a), and of one
14 misdemeanor count of driving a vehicle while having 0.08 percent of alcohol or
15 higher in his blood in violation of Vehicle Code section 23152, subdivision (b).

16 C. As a consequence of his convictions, respondent was sentenced to
17 summary probation for a period of 36 months with certain terms and conditions
18 including the orders that respondent: be committed to the custody of the Riverside
19 County Sheriff for six (6) days; complete five (5) days hard labor; not drive with
20 alcohol in his blood or within six (6) hours of consuming alcohol; attend and
21 satisfactorily complete a First Offender DUI Program for four months; submit to
22 chemical tests of blood, saliva, breath, or urine or any reasonable physical test upon
23 request of any probation of law enforcement officer; and pay fines.

24 The November 29, 2012 Conviction

25 D. On or about April 3, 2012, CHP officers in patrol vehicle observed
26 respondent drive straight through an intersection from a right turn only lane.
27 Although it was dark, respondent did not have his lights on. The officers stopped
28 respondent after observing him drive without lights for some time. Upon contact,

1 respondent smelled of alcohol. He admitted he had been drinking. He informed the
2 officers he was a physician and had been convicted of drunk driving in the past. He
3 requested the officers "help him out." Respondent's speech was slurred, his eyes
4 were bloodshot and was unsteady on his feet. He failed a field sobriety test.
5 Respondent was arrested and a blood sample was obtained. Respondent's blood
6 sample result contained 0.21% alcohol.

7 E. On or about November 29, 2012, in the Superior Court of California,
8 County of Riverside, in the case of *People of the State of California v. George*
9 *Ponce*, Case No. RIM1209666, respondent was convicted, on his plea of guilty, of
10 one misdemeanor count of driving a vehicle while having 0.08 percent of alcohol or
11 higher in his blood in violation of Vehicle Code section 23152, subdivision (b).
12 Respondent also admitted the prior Vehicle Code section 23152, subdivision (b)
13 conviction alleged in paragraph 8(B), above.

14 F. As a consequence of the conviction, respondent was sentenced to
15 summary probation for a period of 48 months with certain terms and conditions
16 including the orders that respondent: be committed to the custody of the Riverside
17 County Sheriff for 40 days; attend and complete an 18-day Second Offender Drinking
18 Driver Program; complete a MADD DUI victim impact program; not drive with
19 alcohol in his blood or within six (6) hours of consuming alcohol; submit to chemical
20 tests of blood, saliva, breath, or urine or any reasonable physical test upon request of
21 any probation of law enforcement officer; and pay fines and restitution.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Conviction of More Than One Misdemeanor Involving** 24 **the Use of Alcoholic Beverages)**

25 9. Respondent is further subject to disciplinary action under sections 2227 and
26 2234, as defined by section 2239, subdivision (a), of the Code, in that respondent has been
27 convicted of more than one misdemeanor involving the use of alcoholic beverages, as more
28

1 particularly alleged in paragraph 8, above, which is hereby incorporated by reference and
2 realleged as if fully set forth herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Alcoholic Beverages)**

5 10. Respondent is further subject to disciplinary action under sections 2227 and
6 2234, as defined by section 2239, subdivision (a), of the Code, in that respondent has used
7 alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself,
8 another person, or the public, as more particularly alleged in paragraph 8, above, which is hereby
9 incorporated by reference and realleged as if fully set forth herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Violation of a Provision or Provisions of the Medical Practice Act)**

12 11. Respondent is further subject to disciplinary action under sections 2227 and
13 2234, as defined by section 2234, subdivision (a), of the Code, in that respondent has violated a
14 provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 8,
15 9 and 10, above, which are hereby incorporated by reference and realleged as if fully set forth
16 herein.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(General Unprofessional Conduct)**

19 12. Respondent is further subject to disciplinary action under sections 2227 and
20 2234, as defined by section 2234, of the Code, in that respondent has engaged in conduct that
21 breaches the rules or ethical code in the medical profession, or conduct which is unbecoming a
22 member in good standing of the medical profession, and which demonstrates an unfitness to
23 practice medicine, as more particularly alleged in paragraphs 8, 9, 10 and 11, above, which are
24 hereby incorporated by reference and realleged as if fully set forth herein.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Medical Board of California issue a decision:
28

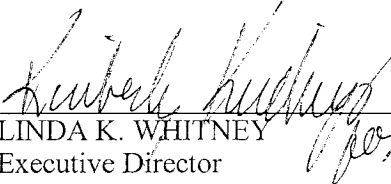
1 1. Revoking or suspending Physician's and Surgeon's Certificate Number A51194,
2 issued to respondent George A. Ponce, M.D.;

3 2. Revoking, suspending or denying approval of respondent George A.
4 Ponce, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the
5 Code;

6 3. Ordering respondent George A. Ponce, M.D., if placed on probation, the
7 costs of probation monitoring; and

8 4. Taking such other and further action as deemed necessary and proper.

9
10 DATED: March 22, 2013


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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